

REMARKS

Claims 1-65 are pending in this application. Claims 3, 9, 10, 23-25, 27, 33, 39, 40, 53-55, and 59 and 63-65 are withdrawn from consideration. By this Amendment, Claims 1, 32, 57 and 62 are amended. Support for the change to claims 1, 32 and 62 may be found, for example, in paragraphs [0003], [0012], [0029], [0030], [0051] - [0054], [0127] and Figs. 4, 11 and 12. Claim 57 is amended to address the claim objection.

Entry of the amendments is proper under 37 CFR §1.116 since the amendments:

- (a) place the application in condition for allowance (for the reasons discussed herein);
- (b) do not raise any new issue requiring further search and/or consideration (as the amendments amplify issues previously discussed throughout prosecution); and
- (c) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

Applicant appreciates the indication that claims 18, 19, 31, 48, 49 and 61 would be allowable if rewritten in independent form. In view of the Amendment and Remarks presented herein, Applicant is not amending these claims at this time.

Claim 57 was objected to since it depends from claim 32 and claim 32 refers to a "receptacle" for containing the first substance and not "a housing" as was present in original claim 57. Claim 57 now includes the term "receptacle." Accordingly, withdrawal of this claim objection is requested.

Claims 1, 2, 5-8, 11-14, 21, 26, 28-30, 32, 35-38, 41-44, 51, 56-58, 60, and 62 stand rejected under 35 U.S.C. §102(b) over Stevens, U.S. Patent No. 460,602. This rejection is respectfully traversed.

Stevens fails to teach or suggest a packaging and dispenser device having a first substance in a receptacle and a second substance in a housing wherein:

- 1) the first substance is one of lipstick, nail varnish, foundation, powder, gel, and care cream,
- 2) the second substance is one of a cosmetic product and a care product, and
- 3) the application surface is configured for applying the first substance on at least one of nails, skin, lips or keratinous fibers,

as recited in claims 1, 32 and 62. Stevens teaches a combined writing and moistening device having only ink, a substance for use in a pencil such as lead or graphite, or a moistening liquid within the device. There is no teaching or suggestion that the Stevens device contains lipstick, nail varnish, foundation, powder, gel or a care cream or that the application surface is configured for applying one of these substances to the nails, skin, lips or keratinous fibers. The features added to claims 1, 32 and 62 do not require further search or consideration because they are all either cosmetic or care products and previously-searched, original dependent claims 8 and 30 were directed to the first substance being a cosmetic or care product and the second substance being compatible with the first substance, respectively.

In view of the foregoing, Applicant respectfully submits that Stevens does not teach or suggest all the features of the claimed devices. Withdrawal of the 35 U.S.C. §102(b) rejection is respectfully requested.

Applicant further submits that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-65 and rejoinder of claims 3, 9, 10, 23-25, 27, 33, 39, 40, 53-55, 59 and 63-65 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachment:

Petition for Extension of Time

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